



EXHIBIT F

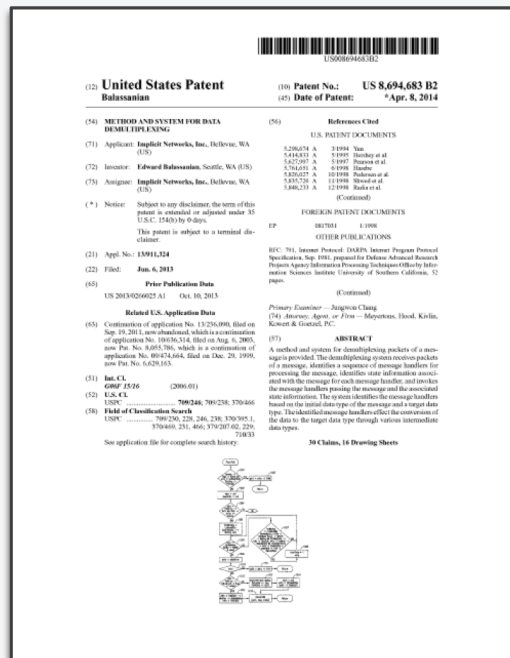
IMPLICIT v. NETSCOUT

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS, MARSHALL

Honorable Judge Rodney Gilstrap
Civil Action No. 2:18-cv-53

November 13, 2019

Claim 1 of the '683 Patent



1. A first apparatus for receiving data from a second apparatus, the first apparatus comprising: . . .

create . . . a path that includes one or more data structures that indicate a sequence of routines for processing packets in the message;

store the created path; and

process subsequent packets in the message using the sequence of routines indicated in the stored path,

wherein the sequence includes a routine that is used to execute a Transmission Control Protocol (TCP) to convert one or more packets having a TCP format into a different format.

'683 Patent, Claim 1

The Court’s Claim Constructions

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THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

IMPLICIT, LLC,

V.

CASE NO. 2:18-CV-53-JRG

NETSCOUT SYSTEMS, INC., et al.

CLAIM CONSTRUCTION
MEMORANDUM AND ORDER

Before the Court is the Opening Claim Construction Brief (Dkt. No. 89) filed by Plaintiff Implicit, LLC ("Plaintiff" or "Implicit"). Also before the Court are Defendants NetScout Systems, Inc. and Sandvine Corp.'s ("Defendants'") Responsive Claim Construction Brief (Dkt. No. 93) and Plaintiff's reply (Dkt. No. 96).

The Court held a claim construction hearing on April 11, 2019.

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<u>Term</u>	<u>Construction</u>
“execute a Transmission Control Protocol (TCP)” (’683 Patent, Cl. 1; ’790 Patent, Cl. 1, 15)	“operate on one or more packets whose outermost header is a TCP header”

<u>Term</u>	<u>Construction</u>
“convert one or more packets having a TCP format into a different format” (’683 Patent, Cl. 1; ’790 Patent, Cls. 1, 15)	“convert the outermost header structure of the packet(s) from TCP to another type of header structure”
“convert one of the packets of the message into a different format” (’790 Patent, Cl. 8)	

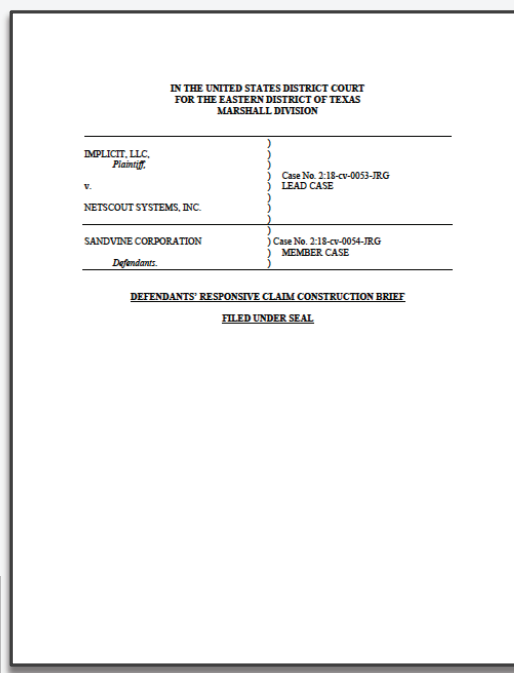
Claim Construction Memorandum and Order, at 29, 35

The Parties' Claim Construction Positions

wherein the sequence includes a routine that is used to execute a Transmission Control Protocol (TCP) to convert one or more packets having a TCP format into a different format

Plaintiff's Construction	Defendants' Construction
Plain and ordinary meaning. No construction necessary.	"operate on one or more packets whose outermost header is a TCP header at the endpoint of a connection"
Plaintiff's Construction	Defendants' Construction
Plain and ordinary meaning. No construction necessary.	"convert the packet(s) outermost header structure from TCP to another type of header structure"

Defendants Asserted That Their Constructions Reflected “Basic Packet Processing”



89 at 17-19; *see also Fenner*, 778 F.3d at 1323-25. Furthermore, Implicit pays no credence to basic packet processing, and the fact that a protocol operates on packet that is in the format of that protocol as detailed in the preceding section. Defendants are applying the basic technical meaning of the claim terms in their proper context.

outermost header that is in the TCP format, and then the system can “execute TCP.” Not only is this basic networking, but Implicit has repeatedly distinguished prior art on this same basis. *See*

another. The “format” of a packet is the subject of the parties’ dispute. As explained below, the “format” of a packet is its outermost header structure. This is an undeniably accurate statement, as confirmed by Implicit’s intrinsic record statements and by Implicit’s technical expert during reexamination proceedings, and the Court should provide the jury this basic understanding.

Dkt. 93, at 11, 18

The Court Addressed “Converting” By “Merely Moving a Reference” in Column 14

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C. "site information"	14
D. "process subsequent packets in the message using the sequence of routines indicated in the stored path" and Related Terms	15
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Plaintiff has cited disclosure in the specification regarding advancing a reference past a header:

Although the conversion system has been described in terms of various embodiments, the invention is not limited to these embodiments. Modification within the spirit of the invention will be apparent to those skilled in the art. For example, a conversion routine may be used for routing a message and may perform no conversion of the message. Also, a reference to a single copy of the message can be passed to each conversion routine or demuxkey routine. These routines can advance the reference past the header information for the protocol so that the reference is positioned at the next header. After the demux process, the reference can be reset to point to the first header for processing by the conversion routines in sequence.

'683 Patent at 14:4–16. This disclosure of “advanc[ing] the reference past the header information

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